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Indonesia: The situation of homosexuals; state protection and availability of support groups  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

### The situation of homosexuals

According to a professor of cultural studies at Southern Cross University (Australia) who is an expert on homosexual rights in Asia, "there is pervasive and systemic danger for homosexuals in mainstream socio-cultural domains" in Indonesia (28 May 2008). The Professor stated in correspondence with the Research Directorate that homosexuals in Indonesia "are often perceived to be Western corrupted individuals or deviants" and, in some cases, have been "expelled from their families and have had to flee to other countries to survive" (28 May 2008).

In contrast, Fridae, a Hong Kong-based media website that seeks to "empower gay Asia" (Fridae n.d.a) states the following on levels of gay acceptance in Indonesia:

Various kinds of sexualities are an integral part of Indonesia's cultural mosaic. Many married men and women also maintain same-sex relationships. Only in some sectors of the new middle and professional classes, as well as some religious movements, has homophobia taken root. (ibid. n.d.b)

In correspondence with the Research Directorate, Dédé Oetomo, a prominent Indonesian gay rights activist, provided the following information from an article he co-wrote for the Australian magazine *OUTinPerth*:

Social and cultural attitudes in Indonesia tend to be more tolerant than many other Muslim countries of GLBT [gay, lesbian, bisexual, transgender] people. Male-to-female transgenders (known as *waria*) have historically been visible in rituals, performing arts and social life...

...

Generally speaking, Indonesian society is safe for gays, lesbians and *waria*, although there have been isolated attacks by fanatical Muslim groups on gay men. (*OUTinPerth* June 2008, 7)

Similarly, the Professor stated that there are "extremist" Muslim Indonesian and Pemuda Islam (Muslim youth) groups that carry out physical attacks and blackmail aimed at homosexuals (28 May 2008).

The Professor also provided the following information:

There is a ... deeply embedded 'heterosexism' in Indonesia, which means that any deviation from heteronormativity is seen as dishonourable and shameful [see also Boellstorff Dec. 2004]. Although concealed and unspoken homosexuality may be tolerated to exist to some degree within certain elements of Indonesian society, explicit homosexual identity is regarded as an illness (*sakit*) and is the target of social exclusion, violence, and other forms of physical, psychological and emotional persecution.

Homosexual identified people experience harassment, bullying, physical violence and dehumanisation...  
(Professor 28 May 2008)

Oetomo refers to the implications of heteronormativity in Indonesia in the magazine *OUTinPerth*:

The heteronormativity of societal values and laws poses a big challenge to gays and lesbians to live fully and openly as homosexuals. Many gays and lesbians live discretely and in fear of being 'outed.' *Waria*, typically have a hard time growing up, but unlike many gays and lesbians, once they can accept themselves and find safe space, usually away from their birth families, they can usually lead a relatively open life. (*OUTinPerth* June 2008, 7)

Both the *Sydney Star Observer* and the *Jakarta Post* mention an April 2008 meeting between Islamic leaders and Arus Pelangi, an Indonesian gay rights organization (*Sydney Star Observer* 2 Apr. 2008; *The Jakarta Post* 1 Apr. 2008; ibid. 28 Mar. 2008). According to the *Sydney Star Observer*, an official from Indonesia's Conference of

Religions and Peace "declare[d] that homosexuals were made by God and were a part of nature, and that homosexual attraction was motivated by greater things than mere physical lust" (2 Apr. 2008; see also *The Jakarta Post* 1 Apr. 2008). The *Sydney Star Observer* further states that an official from Nahdkatul Ulama, "the largest Muslim group in Indonesia" stated that "prejudice against gay men and lesbians was a social construct" (2 Apr. 2008). *The Jakarta Post* reports that other groups such as the Indonesian Ulema Council, Hizbut Thahir Indonesia (28 Mar. 2008) and the Indonesian Bishops Council expressed their condemnation of homosexuality (1 Apr. 2008).

### **Homosexuality and the law**

The International Lesbian and Gay Association (ILGA) provides the following information in a May 2008 report on state-sponsored homophobia:

Same-sex relations are not prohibited according to the national Penal Code. The only provision to deal with such relations is article 292 which prohibits sexual acts between persons of the same sex, if committed with a person under the legal age. (May 2008)

Reuters states in a 26 August 2007 article that homosexuality in Indonesia is not a legal offence "but remains taboo in a country where 85 percent of the 220 million people are Muslim" (see also Professor 28 May 2008).

Several sources note that local governments have introduced sharia-inspired legislation that affects GLBT people (*Sydney Star Observer* 2 Apr. 2008; Professor 28 May 2008; *Gay City News* 12 Oct. 2006). An article in the *Sydney Star Observer* discusses "sharia-inspired" anti-pornography laws that legally deem gay men to be "pornographic" (2 Apr. 2008; see also *Gay City News* 12 Oct. 2006). In a 12 October 2006 *Gay City News* article, an official from an Indonesian gay rights group is quoted as describing a law from the region of Palembang that deems "'homosexual sex, lesbians, sodomy, sexual harassment, and other pornographic acts'" as prostitution. The Professor provided the following information on sharia law in Indonesia:

Some provinces in Indonesia have adopted traditional *Sharia* law, which explicitly condemns homosexuals. Throughout 2006 and 2007 to the present there has been growing evidence that there is a sharp increase in support for *Sharia* law and its expansion throughout the greater Indonesian archipelago. (28 May 2008)

Similarly, the *Gay City News* article states that there are similar sharia-based laws in Sumatra and Java and that "'52 regions have adopted or put forward such laws'" (12 Oct. 2006).

According to the Professor, Indonesia's Ministry of Justice and Human Rights is in the process of amending the Criminal Code, to criminalize homosexuality (28 May 2008). The Professor elaborated on this topic:

[E]ven without such formal inclusion or criminal sanction in Indonesian law, Islamic law already profoundly affects and dictates social mores on the subject of homosexuality, leaving homosexuals in Indonesia extremely vulnerable to persecution justified by religious proscription of that identity. Such individuals are unable to seek protection for fear of their sexual orientation being revealed or exposed. The passage of this proposed law would effectively consign every homosexual to extortion and blackmail in addition to other forms of persecution. (28 May 2008)

Further information on the status of the amendment to the Criminal Code could not be found among the sources consulted by the Research Directorate.

### **State protection**

Dédé Oetomo states in *OUTinPerth* that although there is, in some human rights legislation, "a vague guarantee against discriminatory practices on any ground" [see also Fridae 28 Mar. 2008], GLBT people do not have sufficient legal protection regarding discrimination based on sexual orientation or gender identity (*OUTinPerth* June 2008, 7). The lack of legal protection for homosexuals is corroborated by the Professor at Southern Cross University who states the following:

There are ... no laws that protect homosexuals from violence and persecution. ... Homosexuals cannot expect protection where explicit gay identity is involved. I know of many Indonesian gay men who have been violently attacked and tortured for their sexual orientation, by both Army personnel and the police. These men were unable to seek any protection from the police or judiciary and were also refused assistance in hospitals. There is ... no state protection for homosexuals. (28 May 2008)

According to Amnesty International (AI), "[t]hose deemed to be members of 'undesirable' groups, including lesbians and gay men, may be particularly vulnerable to abuse, including sexual assault" (20 June 2007). *Gay City News* states that homosexuals who are imprisoned are subjected to harsher sexual abuse compared to other prisoners because of their sexual orientation (12 Oct. 2006).

Both AI and Human Rights Watch (HRW) report that the UN Special Representative of the Secretary General on Human Rights Defenders has expressed concern regarding the lack of protection for human rights defenders advocating for GLBT rights (AI 2008; HRW 31 Jan. 2008).

## Specific cases

Several sources report that in January 2007, two homosexual men "were reportedly beaten, kicked and verbally abused by neighbours and then were arbitrarily detained by the police, and taken to Banda Raya [Aceh] police post, where they were subjected to further sexual abuse and other forms of torture and ill-treatment" (AI 20 June 2007; US 11 Mar. 2008, Sec. 1c; see also AHRC 10 Dec. 2007, 137). AI indicates that "[i]t appears that the men were targeted solely because of their sexual orientation" (20 June 2007). According to the United States (US) Department of State *Country Reports on Human Rights Practices for 2007*, four police officers are facing administrative action in connection with the incident (11 Mar. 2008, Sec. 1c). *Country Reports 2007* states that the authorities had not laid charges by the end of 2007 because "one of the victims had fled Aceh and the other refused to be questioned" (US 11 Mar. 2008, Sec. 1c). The Professor indicated that he was aware of cases of the rape of homosexuals by police in various parts of Indonesia, including Medan and Jakarta (28 May 2008; see also *Gay City News* 12 Oct. 2006).

The Professor provided details on cases of homosexual men who, after having been attacked and hospitalized, were not able to file a police report because they were either blamed for the incident or told that "it was their fault for being a '*banci*' or gay" (28 May 2008). The Professor was also aware of an incident in which a group of gay men was apprehended by the police and taken to jail in Jakarta, uninformed of the reasons for their apprehension and "asked to pay 50,000 Rupiah [approximately \$5.50 Canadian dollars (Canada 22 July 2008)] to be released..." (28 May 2008; see also *Gay City News* 12 Oct. 2006).

## Availability of support groups

Dédé Oetomo provided the following information on social spaces for GLBT people:

Recently, the introduction and proliferation of the internet has provided much-needed safe spaces for gays, lesbians and *waria* to meet and build communities. In fact, internet cafés or kiosks have become ... social spaces for GLBT people.

...

Gay and *waria* organizations exist in many Indonesian towns and cities, and currently, the priority of these organizations is HIV and STI [sexually transmitted infection] prevention and care, support and treatment. Lesbian organizations are fewer in number, but in the past ten years have been more visible as they carry out feminist and social emancipation campaigns and activities. (*OUTinPerth* June 2008, 7)

Utopia-Asia, a website that serves gay men and lesbians in Asia, states that while Indonesia has a significant number of "established queer social organizations and activists," social spaces are lacking (n.d.).

The following groups were listed on the South and Southeast Asia Resource Centre on Sexuality as organizations working on issues related to sexuality: GAYa Nusantara, based in Surabaya (see also Fridae 28 Mar. 2008); Kunci Cultural Studies Centre in Yogyakarta; Q-munity and Spiritia Foundation in Jakarta (n.d.). Arus Pelangi (Rainbow Flag), established in January 2006 and with a membership of roughly 400, is identified in a 12 October 2006 *Gay City News* article as Indonesia's first activist LGBT [lesbian, gay, bisexual, transgender] organization working in the legal and political arenas. A Fridae article notes that Institut Pelangi Perempuan is an Indonesian lesbian youth organization (28 Mar. 2008). Yayasan Srikandi Sejati, established in 1998, works on transgender health issues (*Gay City News* 12 Oct. 2006).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Attempts to contact an official at Yayasan Spiritia were unsuccessful.

**Internet sites, including:** *Arus Pelangi*, Asian Pacific Islander Queer Women and Transgender Community (APIQWTC), Avert.org, European Country of Origin Information Network (ecoi.net), Gay and Lesbian Advocates and Defenders (GLAD), Gay and Lesbian Alliance Against Defamation (GLAAD), Gay/Lesbian International News Network (GLINN), Gay Planet Holidays, *Gay Times*, GAYa NUSANTARA, Human Rights Watch (HRW), Indonesian Lesbians' Homepage, International Gay and Lesbian Human Rights Commission (IGLHRC), Legislationline.org, Queer Resources Directory, Transgender Asia, *World Law Bulletin*.

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